IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 1416 OF 2006

Shantaram Pandurang Tetgure .....Petitioner
(Orig.Plff)

vs.

Babu Gangaram Andhere .....Respondent
(Orig.Defnd)

Nitin Mulye for the petitioner.

CORAM: S.C.DHARMADHIKARI, J.

DATED: 9th March, 2007.

P.C.

1. The Petitioner is aggrieved by the fact that, although the Trial Court permitted the Original Defendant to file his Written Statement much after the stipulated date, but, while allowing him to do so, the Trial Court, has not condoned the delay. In such circumstances, the

order taking the Written Statement on record is not legal, valid and proper and the defence of the Defendant therefore be struck off.

2. That application has been rejected by the impugned order. After perusing the impugned order, I am of the view that the Trial Court is right in holding that when the Written Statement was taken on record, he did not object to the same being so taken, nor did he raise the issue of delay on that occasion. That apart, there was enough discretion with the Trial Court to condone the delay, which was neither enormous nor unexplained. The petition is therefore devoid of any merits and is accordingly dismissed.

sd/-

(S.C.Dharmadhikari, J)